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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/558,329

04/25/2000

Randolph A. Stern

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06/01/2007

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 06/01/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

|  |                                      |                                     |  |
|--|--------------------------------------|-------------------------------------|--|
| <b>Notification of Non-Compliant Appeal Brief<br/>(37 CFR 41.37)</b> | <b>Application No.</b><br>09/558,329 | <b>Applicant(s)</b><br>STERN ET AL. |  |
|  | <b>Examiner</b><br>Cheryl Juska      | <b>Art Unit</b><br>1771             |  |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 15 March 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

CHERYL A. JUSKA  
PRIMARY EXAMINER

Cheryl Juska  
Primary Examiner  
Art Unit: 1771

Continuation of 10. Other (including any explanation in support of the above items): First, the Grounds for Rejection section of the Brief must list each standing rejection of the claims. For example: "Claims 1-10 stand rejected under 35 USC 102(b) as being anticipated by Reference A. Claims 11-20 stand rejected under 35 USC 103(a) as being unpatentable over Reference A in view of Reference B." In the present case, there are multiple 102 and 103 rejections, each of which must be stated separately. Secondly, in response to the Notice of Non-Compliant Appeal Brief, applicant must submit a corrected brief in full, rather than just a section of said brief.

Thirdly, in addition to the Notice of Non-Compliant Brief mailed on 02/20/07, the following other issues are non-compliant:

1. Status of Claims--list claims as pending, rejected, cancelled, on appeal, etc. Applicant's arguments or discussion of prosecution history not appropriate here.
2. Status of Amendments After Final--pertains only to amendments filed after the Final Rejection of 05/02/06. Applicant's arguments or discussion of prosecution history not appropriate here.
3. Summary of Claimed Subject Matter--maps out invention of each independent claim, citing support in specification for claim features. Other background of invention information not appropriate here.
4. Arguments--subheadings must restate which prior art rejection is being addressed (e.g., Claims 1-10 anticipated by Reference A).
5. Evidence Appendix--missing statement of when evidence entered in record.
6. Related Appeals Decision--missing Board's Response to Request for Rehearing (03/25/05).